

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JULY 7, 2004**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of July 7, 2004, was called to order by Mayor Hansen at 5:31 p.m.

Present: Council Members – Beckman, Howard, Land, and Mayor Hansen

Absent: Council Members – Hitchcock

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Conference with labor negotiator regarding Maintenance and Operators; pursuant to Government Code §54957.6
- b) Actual litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- c) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- d) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- e) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- f) Actual litigation: Government Code §54956.9(a); one case; City of Lodi, a California Municipal Corporation, and Lodi Financing Corporation, a California nonprofit corporation v. Lehman Brothers, Inc. and US Bank National Association, United States District Court, Eastern District of California, Case No. CIV. S-04-0606 MCE-KJM
- g) Actual litigation: Government Code §54956.9(a); one case; Lehman Brothers Inc., v. City of Lodi and Lodi Financing Corporation, United States District Court, Eastern District of California Case No. CIV-S-04-0850 FCD/JFM
- h) Actual litigation: Government Code §54956.9(a); one case; Fireman's Fund Insurance Company v. City of Lodi, et al., United States District Court, Eastern District of California Case No. CIV-S-98-1489 FCD JFM

C-3 ADJOURN TO CLOSED SESSION

At 5:31 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:05 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:12 p.m., Mayor Hansen reconvened the City Council meeting, and Interim City Attorney Schwabauer disclosed the following actions.

In regard to Item C-2 (a), Council authorized its negotiators to return with a proposal to the Maintenance and Operators unit.

In regard to Item C-2 (f), Council authorized amendment of the City's complaint against Lehman Brothers.

In regard to Item C-2 (h), Council authorized further settlement discussions with USF&G.

In regard to Item C-2 (b), (c), (d), (e), and (g), there was no reportable action taken in closed session.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of July 7, 2004, was called to order by Mayor Hansen at 7:12 p.m.

Present: Council Members – Beckman, Howard, Land, and Mayor Hansen

Absent: Council Members – Hitchcock

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Father Rick Matters, St. John the Baptist Episcopal Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hansen.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Hansen presented a proclamation to Parks and Recreation Director, Tony Goehring, proclaiming the month of July 2004 as "Parks and Recreation Month" in the City of Lodi.

D-3 (a) Following introduction by Commission Members Ricky Gill and Jeff Fleak, Mayor Hansen presented a Certificate of Appreciation to Samir Berbawy in honor of his service as an adult advisor on the Greater Lodi Area Youth Commission. Mr. Berbawy retired from the Greater Lodi Area Youth Commission after seven and a half years of service and will be moving to Egypt to serve as Principal for a Seventh Day Adventist School.

Mayor Hansen acknowledged Ricky Gill for having recently been appointed by the Governor to the State Board of Education.

D-3 (b) Assemblymember Alan Nakanishi recognized Police Chief Adams on his recent installation as the California Police Officer's Association (CPOA) President for 2004-05.

D-3 (c) Rob Lechner, Manager of Customer Services and Programs, announced that the first Lodi Electronic Waste Clean-Up Day would be held on August 14.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Hansen, Beckman second, approved the following items hereinafter set forth **except those otherwise noted** by the vote shown below:

Ayes: Council Members – Beckman, Howard, Land, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Hitchcock

E-1 Claims were approved in the amount of \$3,551,692.59.

E-2 The minutes of May 19, 2004 (Regular Meeting), June 2, 2004 (Regular Meeting), June 8, 2004 (Shirtsleeve Session), June 8, 2004 (Special Meeting), and June 11, 2004 (Adjourned Special Meeting) were approved as written.

E-3 Adopted Resolution No. 2004-126 authorizing the purchase of JWalk software for use with Orcom ECIS System from Alliance Data Systems Corp., of Dallas, Texas, in the amount of \$11,000.

In reply to Mayor Pro Tempore Beckman, Finance Director Krueger stated that he felt it was a good vendor and appropriate software for the City to continue to use. He stated that the upgrade was necessary to continue to have the software maintained in the future.

- E-4 Adopted Resolution No. 2004-127 awarding the contract for installation of streetlights on Streetlight Completion Project Phase IV to Golden State Utility Company, of Turlock, in the amount of \$746,528.10.
- E-5 Adopted Resolution No. 2004-128 awarding the contract for rental and cleaning of safety clothing for the Electric Utility Department to Cintas Corporation, of Sacramento, in the approximate amount of \$7,774 annually.
- E-6 Accepted the improvements under the "Lodi Parks and Recreation Lighting Retrofit Project, 111 North Stockton Street" contract.
- E-7 Accepted the improvements under the "English Oaks Common Park Shade Structure, 2184 Newbury Circle" contract.
- E-8 Accepted the improvements under the "Emerson Park Playground Improvements, 11 North Hutchins Street" contract.
- E-9 Adopted Resolution No. 2004-129 accepting the improvements in Hutchins Place, Tract No. 3258.
- E-10 Adopted Resolution No. 2004-130 approving the Improvement Agreement and Water Rights Agreement for 847 North Cluff Avenue and directed the City Manager and City Clerk to execute the agreements on behalf of the City.
- E-11 Approved the Improvement Deferral Agreement for 1400 Victor Road and authorized the City Manager and City Clerk to execute the agreement on behalf of the City.
- E-12 Approved the Improvement Agreement for Public Improvements of 715 South Guild Avenue (APN 049-250-68), directed the City Manager and City Clerk to execute the Improvement Agreement on behalf of the City, and appropriated funds in the amount of \$2,440 for applicable reimbursements.
- E-13 Adopted Resolution No. 2004-131 authorizing the City Manager to execute amendments to the current Measure K Environmental and Design and Construction Cooperative Agreements for the Lodi Central City Railroad Safety Project.
- E-14 Adopted Resolution No. 2004-132 authorizing the City Manager to execute Federal Transit Administration Funding Agreement between the City of Lodi and the City of Galt for federal fiscal year 2002-03.
- E-15 Adopted Resolution No. 2004-133 approving the waiver and transfer of Juvenile Accountability Incentive Block Grant funding and disbursement of matching City funds in the amount of \$1,315.
- E-16 Adopted Resolution No. 2004-134 authorizing the City of Lodi to participate in an office supplies contract through the U.S. Communities Government Purchasing Alliance.
- E-17 "Authorize the Treasurer and Revenue Manager to enter into agreements with the Farmers and Merchants Bank of Central California for the issuance of a City credit card for City Attorney, D. Stephen Schwabauer, and Finance Director, James R. Krueger" was **removed from the Consent Calendar and acted upon following approval of the Consent Calendar.**
- E-18 Set public hearing for July 21, 2004, to consider adoption of the Transit Division's fiscal year 2002-03 program of projects.

- E-19 Set public hearing for August 18, 2004, to receive comments on and consider accepting the City of Lodi's Public Health Goals Report.

Council Member Howard noted that Council received a "blue sheet" with a correction on the *Report on Water Quality Relative to Public Health Goals*, noting that the PHG for PCE is 0.06 (not 0.6) micrograms per liter (filed).

Council Member Land commented that staff informed him there were no new detections of PCE/TCE in the wells.

- E-20 Adopted Resolution No. 2004-135 of Preliminary Determination and Resolution No. 2004-136 of Intention to annex Legacy Estates I, Legacy Estates II, and Kirst Estates Zone 5 and The Villas Zone 6 to Lodi Consolidated Landscape Maintenance District No. 2003-1; set public hearing and deadline for receipt of ballots for September 1, 2004; adopted Resolution No. 2004-137 authorizing the City Manager to execute professional services agreement task order 1 with Timothy J. Hachman, attorney at law, in the amount of \$6,500, for services required in support of the annexation; and adopted Resolution No. 2004-138 authorizing the City Manager to execute professional services agreement task order 2 with Thompson-Hysell Engineers, a Division of the Keith Companies, Inc., in the amount of \$9,500, for services required in support of the annexation.
- E-21 Adopted Resolution No. 2004-139 approving cost of living increases for Confidential employees.

ACTION ON ITEM REMOVED FROM THE CONSENT CALENDAR

- E-17 "Authorize the Treasurer and Revenue Manager to enter into agreements with the Farmers and Merchants Bank of Central California for the issuance of a City credit card for City Attorney, D. Stephen Schwabauer, and Finance Director, James R. Krueger"

NOTE: Due to a potential conflict of interest related to his employment with Farmers and Merchants Bank, Council Member Land abstained from discussion and voting on this matter.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, authorized the Treasurer and Revenue Manager to enter into agreements with the Farmers and Merchants Bank of Central California for the issuance of a City credit card for City Attorney, D. Stephen Schwabauer, and Finance Director, James R. Krueger. The motion carried by the following vote:

Ayes: Council Members – Beckman, Howard, and Mayor Hansen
Noes: Council Members – None
Absent: Council Members – Hitchcock
Abstain: Council Members – Land

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Walter Pruss stated that he has been a Lodi resident since 1963. He asked Council if it had read the June 21 article in Forbes magazine entitled "Municipal Bombs," to which Mayor Hansen replied in the affirmative.

G. PUBLIC HEARINGS

None.

H. COMMUNICATIONS

- H-1 Claims filed against the City of Lodi – None
- H-2 Reports: Boards/Commissions/Task Forces/Committees – None
- H-3 Appointments – None
- H-4 Miscellaneous – None

I. REGULAR CALENDAR

- I-1 “Adopt resolution approving the Impact Mitigation Fee Program Annual Report for fiscal year 2002-03”

Public Works Director Prima reviewed the Impact Mitigation Fee Program fund balances and presented the following information:

- Wastewater Impact Fees cover improvements to systems in the City and a separate fee covers capacity at White Slough; the fund balance is \$643,000;
- Water Impact Fees provide funding for new water wells and other expansions to the system that serves new development; the fund balance is \$2.5 million and the cash balance is \$1.1 million, due to an interfund loan from the Water Fund to the Fire Impact Fees for Fire Station #4;
- Storm Drainage Fees pay for new basins and large trunk lines in new developments; the fund balance is \$1.8 million;
- Streets Local Fees pay for traffic signals and other upgrades to streets; the fund balance is \$680,000 and the cash balance is less due to a loan payable;
- Regional Fees pay for facilities on routes that handle traffic on a more regional basis; the fund balance is –\$400,000 because of an interfund loan and the cash balance is \$400,000;
- Police Impact Fees go toward the new police building; the fund balance is \$900,000; a transfer was made to the Capital Fund;
- Fire Impact Fees were paying for Fire Station #4; however, because there was not enough cash for that project, an interfund loan was made and the fund balance is –\$1.4 million;
- Parks and Recreation Fees pay for additional neighborhood parks and the park portion of the City’s storm drain basins; the fund balance is \$2.1 million; an interfund loan was made to the streets fund, which decreased the cash balance to \$1.3 million;
- General City Facilities is for expansion of the City Center, City Hall areas, etc. and has a cash balance of \$290,000; and
- Art in Public Places has a cash balance of \$345,000.

MOTION/ VOTE:

The City Council, on motion of Council Member Land, Beckman second, adopted Resolution No. 2004-140 approving the Impact Mitigation Fee Program Annual Report for fiscal year 2002-03. The motion carried by the following vote:

Ayes: Council Members – Beckman, Howard, Land, and Mayor Hansen
Noes: Council Members – None
Absent: Council Members – Hitchcock

- I-2 “Continued discussion regarding draft fiscal year 2004-05 Financial Plan and Budget”

Deputy City Manager Keeter reviewed the budget calendar as follows:

- May 19 – the City Manager’s Budget Advisory Committee and City Manager discussed Phase 3 budget adjustment recommendations;

- June 2 – the draft budget document was released to the Council and public, following which a series of Shirtsleeve Sessions were held;
- June 8 and June 15 – discussions took place regarding the structural imbalance;
- June 22 – reviewed adjustments to all funds, structural deficit, options for curing the \$1.3 million budget deficit, and fund balances; and
- June 29 – enterprise fund budgets, transit fund, benefits funds, self insurance fund, vehicle & equipment fund, and trust & agency fund were discussed.

Finance Director Krueger reviewed Exhibit E, pages 1, 2, 3, 4, and 5 of the draft 2004-05 2nd Year of Two Year Financial Plan and Budget (filed) and presented the following information:

Operating Transfers In

- Operating transfers-in is \$4,310,167; the amount adopted last year was \$4,724,167; the difference relates to positions, some of which have been transferred from the Finance Department to the Electric Utility Department;
- Of the total budget for the General Fund, there are \$9 million worth of service related budgeted expenditures;
- In reference to the \$3.7 million transferred from the Capital Outlay Fund to the General Fund, Mr. Krueger stated that these are monies that are reserves of the Capital Outlay Fund and most transfers made from Capital Outlay to the General Fund in past years are being transferred back to the General Fund;
- \$985,000 transfer to the General Fund from the Street Fund was to cover operations of the Street Division and comes from Transportation Funds; and
- \$426,277 Engineering costs transfer has an identical transfer out of the Street Fund to the General Fund.

Operating Transfers Out

- \$3,624,498 transfer to the Benefits Fund for benefits paid to employees; and
- \$1,628,000 transfer to the Insurance Fund is to pay for premiums and increase reserves.

Library Fund

- Transfers relate to payment of medical, dental, and vision benefits.

Transportation Development Act Fund

- TDA transfers are for costs of services.

In response to Mayor Hansen, Mr. Krueger stated that under the Police Special Revenue Fund there will be an asset seizure transfer for the recent purchase of handguns.

Water & Wastewater Funds

- \$685,000 is transferred out of the Water Fund and \$665,000 is transferred out of the Wastewater Fund to the General Fund to pay for services being provided, and the balance of the transfers relates primarily to benefits and insurance funds;

Electric Fund

- \$2,373,048 is transferred out to pay for cost of services, benefits, and insurance;
- The scheduled transfer of \$350,000 was backed out.

Council Member Land referenced the transfer out from the Electric Fund for Information System personnel cost and asked Mr. Krueger if he was comfortable with the number (\$131,500).

Mr. Krueger replied that he had not reviewed the cost allocation plan in detail; however, he stated that it seems to be reasonable in that there are two positions that it is funding.

In summary to his report, Mr. Krueger stated that the total transfers in and out for all funds is \$18,135,000.

Deputy City Manager Keeter stated that all of the changes recommended in Phases 1, 2, and 3 have been incorporated in the budget adjustments listed on Exhibit F.

Significant Expenditure Requests

Ms. Keeter noted that Council received a "blue sheet" regarding significant expenditure requests (filed). In 2003-04, it was tentatively approved to reclassify a Management Analyst II to III; however, that request has been denied for 2004-05. The request to hire a High Tech Crime Investigator has also been denied.

Council Member Land stated that identity theft is an important issue and felt that the position of a High Tech Crime Investigator was needed.

City Manager Flynn replied that there is a possibility of converting an existing position to a High Tech Crime Investigator.

Council Member Howard also felt that the need for the position was compelling and believed that the matter should be pursued while the matching funds grant program through the state was still being offered.

Police Chief Adams explained that to qualify for the matching program, one position would have to be added. He expressed concern about the possibility of being successful in obtaining the grant funds considering the current budget condition of the state. He was not in favor of converting an existing position to a High Tech Crime Investigator, due to the loss that would be incurred in the area that would be decreased by one position.

Mayor Hansen asked that research be done to ascertain if the grant is still available and report back to Council.

Ms. Keeter reported that the Fire Department had requested to be relocated back to the old public safety building; however, the request has been denied.

Mayor Hansen requested that a progress report be presented to Council at the first regularly scheduled meeting in August regarding potential tenants for the office space at the parking structure.

Ms. Keeter reported that the request to hire one additional firefighter was denied and the paramedic program is recommended to be deferred at this time.

Mayor Hansen asked how the deferral of the paramedic program would impact the position that was previously added to coordinate the program.

City Manager Flynn reported that the EMS Coordinator is still working on developing a program. He noted that it was a contract position and acknowledged that it should be reviewed.

RECESS

At 8:39 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 8:49 p.m.

I. REGULAR CALENDAR (Continued)

I-2 City Manager Flynn reported that overall, \$1,037,318 worth of requests were denied and (Cont'd.) only \$223,000 new requests are being recommended for approval. He stated that the budget can be balanced this year and next year with the recommendations presented; however, he cautioned that there is a structural deficit. He pointed out that the \$506,845 request for the paramedic program is only for phase 1 of 3. Eventually it could cost up to \$1.5 million per year. A private company currently provides this service to the community and there have not been a lot of complaints. He suggested that if the paramedic program were to proceed, there would have to be additional revenues. He also noted that funding the General Plan update will have to be considered next year.

Ms. Keeter reported that the \$48,000 Fire Department performance incentive bonus, \$41,000 increase in the Fire dispatching contract, and \$42,725 to hire a Public Works Maintenance Worker has been approved by Council and incorporated in the 2004-05 budget. The negative \$45,000 in Electric Utility is a correction from the previous budget, where a position had been incorporated with a Capital request for equipment. It is recommended that the Customer Services Manager position be converted to a full-time permanent position. She noted that there would be no net increase to the budget, because the position is funded through the public benefits program.

Ms. Keeter stated that the traffic monitor replacement equipment for \$17,500 is recommended for approval. The Parks Division office is currently located in a trailer and it is recommended that they be relocated to the recreation annex building at an estimated cost of \$16,000. The cost of County election services has increased and it is recommended that an additional \$62,350 be approved to cover the cost of the November 2, 2004 General Municipal Election. Approval of \$100,000 in additional general liability is recommended, as well as a reduction of \$230,000 in Workers Compensation. The Finance Department has requested that a vacant Accountant I position be reclassified to a Management Analyst position. Ms. Keeter stated that it would not result in an additional cost for 2004-05; however, adjustments would be made in future years.

In reference to staffing listed on a "blue sheet" entitled *Regular Positions by Department* (filed), Ms. Keeter reported that it is recommended to delete the position of Economic Development Coordinator and collapse the duties into the Departments of the City Manager and Community Development. On Exhibit G, page 1 of the draft budget, it is recommended that the position of Customer Service & Program Manager be added. Field Service Representatives have increased by three positions and Field Services Supervisor has increased one position. The Finance Department decreased Field Service Representative by three positions, Field Services Supervisor by one position, and Meter Reader by three positions. Accountant I/II was decreased by one position, and the new position of Management Analyst was increased by one.

In answer to Mayor Pro Tempore Beckman, Mr. Krueger explained that Management Analyst is more of a general position, where Accountant I/II is specific to preparation of financial statements, etc. He hoped to have the Management Analyst assist with budget preparation.

In reference to Exhibit G, page 3 of the draft budget, Ms. Keeter stated that it is *not* recommended to hire an additional firefighter or to institute the paramedic program.

Mayor Hansen asked whether or not hiring the additional firefighter would affect the downtown fire station and staffing of the engine. City Manager Flynn stated that he would check into the matter and report back to Council.

Ms. Keeter reported that one new Laborer/Maintenance Worker has been added in the Water/Wastewater Division. Overall the number of total regular positions in the City has increased from 480 in 2003-04 to 481 in 2004-05.

Mayor Hansen noted that a lot of new positions were added over the years and he felt that the City ought to be able to absorb the losses without a significant reduction in services. He suggested this be done by focusing on core services, streamlining, redefining positions, and assigning staff to functions that are of highest concern to the public.

Ms. Keeter stated that the priority list has been updated to include the structural deficit, medical and retirement benefits issues, the general plan update, and Police outdoor firing range.

MOTION / VOTE:

There was no Council action taken on this matter.

J. ORDINANCES

None.

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Howard stated that on July 2 she attended the Montessori Villa preschool, at which Comcast and Lowe's donated playground and garden equipment to replace items that had recently been stolen. She acknowledged Terry Goodbeer, Comcast Sales & Marketing Manager, Marian Jackson, Comcast Director of Government Affairs, Dawn Whitley, Administrator of Montessori Villa, and Shelley Tarditi, Owner and Director of Montessori Villa.
- Mayor Hansen stated that he would like to have a certificate of appreciation presented to the firm of Kronick Moskovitz Tiedemann & Girard at a future meeting.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn announced that July 14 was Steve Mann's birthday. He reported that the San Joaquin County Registrar of Voters certified the Large-Scale Retail Initiative as sufficient. Mr. Flynn stated that at the first regularly scheduled meeting in August he would be submitting his letter of resignation effective in December with his last day of work being October 1.

(NOTE: At the July 12, 2004, Special Closed Session meeting, City Manager Flynn submitted his resignation effective December 3, 2004, with his last day of work being September 3, 2004.)

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 9:19 p.m.

ATTEST:

Susan J. Blackston
City Clerk